

MOORHEAD - CLAY COUNTY JOINT POWERS AUTHORITY

1:00 PM, THURSDAY, MAY 28, 2026

Meeting Rooms A/B - Third Floor - Courthouse

MINUTES

CALL TO ORDER

Chair Campbell called the meeting to order at 1:01 p.m.

ROLL CALL

City of Moorhead Mayor Shelly Carlson, City of Moorhead Council Members Chuck Hendrickson – (arrived at 1:02 p.m. via Virtual Technology) & Lisa Borgen, and Clay County Commissioners Kevin Campbell & Jenny Mongeau.

Others Present or on Microsoft Teams: Diversion Authority - Madeline Daudt, Justin Fisher; Ohnstad Twitchell Law - Chris McShane, Lukas Andrud, Kathryn McNamara, & John Shockley; AE2S - Eric Dodds; ProSource - Dale Ahlsten; SRF Consulting - Katie Laidley & Ken Helvey; Clay County Staff - Stephen Larson & Sarah Hellem; Buffalo-Red River Watershed District Member Gerald Van Amburg; and City of Moorhead - Bob Zimmerman.

APPROVAL OF AGENDA

Commissioner Mongeau moved, and Council Member Borgen seconded, to approve the agenda. Motion Carried.

APPROVAL OF MINUTES

Council Member Borgen moved, and Mayor Carlson seconded, to approve the minutes from April 23, 2026. Motion Carried

CITIZENS TO BE HEARD

There were no citizens to be heard.

PROJECT UPDATES

Property Acquisition Status Report

Justin Fisher, Diversion Authority, stated the key activities are to continue negotiating settlement agreements for existing eminent domain actions: to date completed three eminent domain trials in Cass County. No new trials in the last month. Completed site inspections and initial discovery hearing for the actions in Minnesota, working to schedule Commissioner Hearings for Minnesota actions, negotiated many settlements since completing the first trial, and there are 13 pending settlement offers with property owners. Closings are pending for 5 parcels/2 owners in Minnesota, and 30 parcels/16 owners in North Dakota. 21,456 acres of flowage easements have been acquired, and 5,634 acres are outstanding. There has been continued development of the MFDA's post-operation clean-up and restoration programs and crop loss programs.

Mr. Fisher referred to the packet and discussed the map pertaining to the MCCJPA Acquisition Status and stated property rights have been attained on 181 parcels; 55 parcels are pending value; 2 parcels have a railroad agreement pending; and 11 parcels

are in negotiation. The property acquisition progress was discussed with the construction footprint being 98.4% complete, with no change from the previous month. The upstream mitigation area (UMA) footprint is at 66.8% complete, with no change from last month. The Property Acquisition Progress by Location includes the Southern Embankment being 95.3% complete, with no change from last month, UMA being 66.8% complete, with no change from last month, and the Environmental Monitoring Easement being 79.3% complete, with no change from last month. The Drayton Dam, In-Town Levees, Stormwater Diversion Channel, and Oxbow Hickson-Bakke are 100% complete. The Property Acquisition Progress by MCCJPA is 74.8% complete, with no change from last month. The Southern Embankment & Associated Infrastructure is 80% complete, with no change from last month, the Upstream Mitigation Area is 71.9% complete, with no change from last month, the UMA – Wolverton is 14.3% complete with no change from last month, and the Environmental Monitoring Easements is 86.3% complete, with no change from last month. The Landowner Overview shows owner groups and parcels broken down for the construction and UMA footprint, with 98% of the owner groups complete for the Construction Footprint, and 68.8% complete for the UMA Footprint.

The Land Agent Reports for the Minnesota side of the project include providing relocation advisory and claim preparation services to people that are moving, providing final walk-through assistance as needed, processing RIMP reimbursement requests, assisting with mediations and settlement negotiations, and conducting negotiations for the Wolverton flowage easements.

Commissioner Campbell asked if the property rights had been secured for the properties that are still in eminent domain between Wilkin and Clay County. Mr. Fisher stated that was correct.

Excess Lands Update

Mr. Fisher stated below is a list of excess lands that are moving through the policy.

The following excess land parcels are actively being routed through the Projects disposal policy.

OIN	State	Project Area	Policy Step
1665, 1792, 1793, 1802	ND	UMA	Public Sale
1834	ND	UMA	Public Sale
831	ND	UMA	Public Sale
7234A	ND	Horace Elevator	Public Sale
7234BCD	ND	Horace Elevator	Adjacent Owners
9576,9577,9578,9579	ND	Oxbow	Adjacent Owners

The following excess land parcels have interested buyers and are awaiting closing.

OIN	State	Project Area
7249	ND	Horace Railroad
9258	ND	UMA

In addition to the parcels noted in the two tables above, the project has completed the sale of 41 parcels, making up roughly 740 acres of excess land across the Diversion Channel, Southern Embankment, Red River Control Structure, Drain 27 Wetland Project, Horace Railroad, and the Upstream Mitigation Area. With these sales the Project has seen a return of roughly \$4.6 million dollars in investments from acquisitions over the years.

MN Litigation Action Update

Chris McShane, Ohnstad Twitchell, stated we have been successful in setting a Commissioner Hearing date for August 24th and 25th. Although it's a few months away, these are the first two dates that work for all entities involved, and we're still trying to figure out which landowners will be involved in this hearing.

Mr. McShane stated, in addition, we intend to go to the Moorhead City Council meeting on June 22, 2026, to pass a resolution to move forward with eminent domain and final written offers for the 5 Wolverton properties. This will take place after the BRRWD June meeting. Mayor Carlson asked if this had been coordinated with the Moorhead City Manager. Mr. McShane stated it hasn't, but he plans to coordinate with Mr. Mahli to get this on the agenda.

Commissioner Campbell asked what type of needs we have for the Wolverton private properties. Mr. McShane stated the need is for both levee construction and flowage easements, but there is a caveat to that. When talking about this board and the City of Moorhead, it's only flowage easements. So, all we need for those 5 property owners is flowage easements, however, all of those property owners also have some property that is needed for levee construction, which is what the BRRWD is acquiring. The reason for approaching this at this stage of the project is because we weren't entirely sure what that levee footprint would look like and we didn't want there to be a gap between the levee and the acquired flowage easements, we wanted to make sure those aligned.

Commissioner Campbell stated we're looking at October 2026 for the Project being somewhat substantially complete and asked if that would mean the project is operational, from our standpoint. John Shockley, Ohnstad Twitchell, stated the reference to substantial completion is for the construction side. For the operational side of the Project, we're looking at March of 2027. Commissioner Campbell reminded everyone that we're under a timeline, especially if a levee still needs to be constructed. Council Member Borgen clarified that there could be two potential actions for eminent domain, one for the flowage easement and one for building the levee. Mr. McShane stated, yes, that is the intent. The BRRWD would start an eminent domain action to acquire the Right of Way (ROW) for the levee itself, and the City of Moorhead would be asked and expected to file a second eminent domain action for the flowage easement, which is everything outside of the levee. Council Member Borgen asked if the expectation was for these actions to be done by March 2027. Mr. McShane stated the expectation is that the ROW be acquired by March 2027, and in Minnesota, we have 120-day notice after the action is filed to have a public purpose hearing, which would hopefully be successful. Then we'd pay the amount of the appraisal, and the ROW would transfer and would ultimately determine what the just compensation would be.

Commissioner Mongeau stated one of the biggest obstacles would be the coordination with the railroad, and as of mid-spring the BRRWD has yet to come to an agreement with the railroad in terms of what the levee would look like. Eric Dodds, AE2S, stated we've been having regular coordination calls with BRRWD team on the levee project and all the land acquisition efforts. The topic of coordinating with the railroad has certainly been part of those discussions, and the BRRWD design team continues to try and coordinate with the railroad on this topic. There are portions of the ring levee that we're hoping and anticipating could be completed earlier than the entirety of the levee, and part of that

strategy is because of that railroad piece knowing that it takes time to get those things coordinated.

LAND MANAGEMENT

OIN 7107 Miller Notice

Madeline Daudt, Diversion Authority, requested approval to send a notice to OIN 7107 and stated as outlined in the agreement, the Grantor is required to complete the Mitigation Project no later than August 1, 2026. If the Mitigation Project is not completed by that date, the Grantor shall forfeit all interest in the existing pole barn and any other buildings, structures, or improvements on the Easement Property. This letter serves as notice to the property owner.

Council Member Borgen moved, and Mayor Carlson seconded, to approve sending the notice of mitigation completion deadline letter to OIN 7101 Miller. Motion Carried.

OIN 1794/1795 Willem Update

Ms. Daudt stated she and ProSource Land Agent, Dale Ahlsten met with Judy Willem onsite on May 15, 2026, where a final walkthrough of the property was completed, the locks were changed, and all utilities have been transferred to the MCCJPA. As of May 20, OIN 1794 and 1795 have been issued for bid. A site walkthrough for prospective contractors was scheduled for May 26, 2026, with contract award anticipated on May 29, 2026. Ms. Willem has indicated she will be removing a limited number of boxes and tools from the garage prior to the contractor award. She will not be on site once the contract has been issued and work is ready to proceed.

ACQUISITION

OIN 1267 1268 Blilie Amended FE Language

Lukas Andrud, Ohnstad Twitchell, stated this is a request for reimbursement of additional attorney's fees. Although the framework of the settlement was reached more than a year ago, the introduction of a privately constructed ring levee by the Project added a level of complexity that exceeded the Blilies' attorneys' original expectations. Significant additional time appears to have been required to understand the levee bidding and construction process, as well as to negotiate the related settlement documents.

Kelly and Stephanie Blilie executed their purchase agreement last Friday, which included the previously approved attorney's fees not-to-exceed (NTE) amount of \$46,000 that was authorized nearly a year ago. They have since requested that the NTE amount be increased by \$6,000, for a total of \$52,000, to reflect the additional time and expense incurred due to the expanded scope and complexity of the transaction.

Mayor Carlson moved, and Council Member Borgen seconded, to approve the additional \$6,000 of attorney's fees for a total of \$52,000 in attorney's fees for OIN 1267/1268 Blilie. Motion Carried.

OIN 1850X1 Field Access Installation

Dale Ahlsten, ProSource, stated 1850x1 Farm Tenant, Todd Blilie, has reported the

elimination of the existing field access on 140th Ave due to SE-4 placement. The tenant at has proposed to widen and improve an unused existing field access on 3rd St N, to accommodate the width of modern farm implements, and replace the previous access on 140th Ave. The cost to improve the existing access is expected to be significantly less than new access installation.

Commissioner Mongeau moved, and Council Member Borgen seconded, to approve up to \$15,000 for replacement of farm field access for OIN1850x1. Motion Carried.

OIN 8793 City of Wolverton Negotiation Summary

Katie Laidley, SRF, stated she's been working with the City of Wolverton on their flowage easement agreement and through negotiations, they're willing to close on the flowage easement for \$3,000 which is an additional \$650 above the offer amount. This is consistent with other settlements in the area and there are no attorney fees associated with this acquisition.

Mayor Carlson moved, and Council Member Hendrickson seconded, to approve the proposed negotiation summary for OIN 8793 City of Wolverton in the amount of \$3,000. Motion Carried.

ADJOURN

The meeting was adjourned at 1:28 p.m.

Stephen Larson, MCCJPA Secretary